

From: Greg Piper
To: Microsoft ATR
Date: 1/28/02 8:00pm
Subject: Microsoft Settlement

To the Honorable Judge Kollar-Kotelly:

The Discovery Institute would like to affirm to the court its support for the proposed Microsoft antitrust settlement. Our mission is to "make a positive vision of the future practical," and we believe that while any settlement is far from perfect, this particular settlement is very practical and will contribute positively to economic stabilization and growth in America as well as to technological innovation in the public interest-causes we have advocated from the Institute's debut 12 years ago.

Microsoft is the leading player in the software industry, and its actions as well as actions against the company will have a substantial ripple effect throughout the technology sector and economy at large. Its success has led the way in a growing and stable market for software products that has carried through the collapse of most dot-com enterprises and contributed to record government surpluses until now. Microsoft's competitors have the right to challenge its market supremacy with their own products and innovations, but in recent years the nature of their competition has largely revolved around government intervention initiated and prodded on by the competitors. AOL Time Warner lately has invested at least as much time and energy in lobbying Washington as in developing attractive and useful products. It purchased Microsoft's rival Netscape, which makes a browser that is more expensive than and inarguably inferior to Microsoft's. It didn't bother to promote the acquisition to its massive AOL audience, preferring to blame its ineptitude on a rival. This reflects a strategy used by the fallen Enron Corp., which extolled the virtues of a deregulated energy market while lobbying government for legal restrictions on its market rivals. Enron's demise has yet to show serious economic damage. But the assault against Microsoft, in our judgment, has contributed to the current technology sector depression and to recession in the economy as a whole. It is time to call it off.

Economic success rests not only on prudent government regulation, but on a company's motivation to continually improve its products and make innovations that will attract more consumers. Software users, whether individuals or business, have gradually been leaving the tech market for the past few years because a lack of innovation has decreased any incentive to upgrade their equipment. Massive discounts on computers and accessories can stem the technology exodus for only so long.

The proposed settlement has been careful to limit the damage to Microsoft while redressing its legal breaches in software design and marketing, and any further litigation is likely to devolve into jockeying for advantage between rival corporations, absent of any public interest. For the sake of

both the tech sector and the economy that responds so sensitively to its sways, this practical and evenhanded settlement should be enacted expeditiously.

Bruce Chapman, President

Greg Piper, Director of Communications